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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

KEITH B. ASHDOWN, STAFF DIRECTOR  
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December 11, 2015

The Honorable Loretta E. Lynch  
Attorney General  
U.S. Department of Justice  
Robert F. Kennedy Building  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Attorney General Lynch:

On December 2, 2015, two individuals carried out a terrorist attack that left 14 civilians dead and at least 21 wounded in San Bernardino, California. Law enforcement officials have identified Syed Rizwan Farook and his wife, Tashfeen Malik, as the suspects that carried out the heinous attacks in San Bernardino. In light of this recent terrorist attack, I write to request information about actions taken by Department of Justice entities before, during, and after the events of the December 2, 2015.

Officials from the Bureau of Alcohol, Tobacco, Firearms and Explosives have confirmed that they recovered two rifles and two handguns from the scene.<sup>1</sup> In addition, officials recovered approximately 12 pipe bombs and tools that “could be used to construct IEDs or pipe bombs” from the family’s residence.<sup>2</sup> Law enforcement personnel have confirmed that Mr. Farook legally purchased the handguns used in the attack.<sup>3</sup> The two AR-15 rifles recovered at the scene were purchased by Enrique Marquez, an associate of Mr. Farook.<sup>4</sup> It is unclear at this time how Mr. Farook and Ms. Malik obtained the rifles used in the terrorist attack from Mr. Marquez; however, the transfer of the weapons was reportedly not documented by a federally licensed firearms dealer.<sup>5</sup>

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<sup>1</sup> Mark Berman, Elahe Izadi, and Wesley Lowery. *At least 14 people killed, 17 injured in mass shooting in San Bernardino, Calif.; two suspects killed in shootout with police*. The Washington Post, December 2, 2015, <https://www.washingtonpost.com/news/post-nation/wp/2015/12/02/police-in-san-bernadino-calif-responding-report-of-shooting/>

<sup>2</sup> Greg Botelho, *San Bernardino shooting: Carnage was ‘unspeakable,’ police say*, CNN, Dec. 4, 2015, <http://www.cnn.com/2015/12/04/us/san-bernardino-shooting>.

<sup>3</sup> Martin Rogers et al, *Shooters may have had links to radical ideology*, USA Today, Dec. 3, 2015, <http://www.usatoday.com/story/news/2015/12/03/farook-malik-mass-shooting-san-bernardino/76709266>.

<sup>4</sup> Kate Mather, et al, *Enrique Marquez, who bought rifles used in San Bernardino attack, had deep ties to gunman*, LOS ANGELES TIMES, Dec. 10, 2015, <http://www.latimes.com/local/california/la-me-sb-marquez-20151210-story.html>.

<sup>5</sup> *Id.*

According to reports Mr. Farook and Ms. Malik were potentially radicalized as early as 2012.<sup>6</sup> In addition, recent reports have revealed that Mr. Farook may have been in contact with at least five people that the FBI was potentially investigating for ties to terrorism, but in each case the investigations were closed and no charges were filed.<sup>7</sup> Meanwhile, Ms. Malik, who grew up in Saudi Arabia, graduated from a college in Pakistan where it appears that she may have been exposed to conferences and lectures given by radical jihadist leaders.<sup>8</sup>

In order to better understand the events before, during, and after this attack, I respectfully request the following information and material:

1. Prior to the terrorist attack in San Bernardino on December 2, 2015, had Mr. Farook, Ms. Malik, or Mr. Marquez ever been under any investigation or surveillance by U.S. law enforcement or counter-terrorism officials? Please explain.
2. Was any Joint Terrorism Task Force (JTTF) office in the United States alerted, at any time, about Mr. Farook, Ms. Malik, or Mr. Marquez? If so, when?
3. Please provide all communications retrieved from the electronic devices of Mr. Farook and Ms. Malik that convey specific plans and logistics regarding the December 2, 2015 attack.
4. Please provide any evidence of encrypted communication retrieved from the electronic devices of Mr. Farook and Ms. Malik that may have masked specific plans and logistics regarding the December 2, 2015 attack.
5. Please provide any evidence of communications from either Mr. Farook or Ms. Malik that indicated their desire to conduct terrorist attacks.
6. Please provide any evidence the Department has obtained indicating that a foreign terrorist organization directed Mr. Farook and Ms. Malik to work together to conduct a terrorist attack on U.S. soil.
7. Which U.S. agency or agencies knew of Ms. Malik's connection to a radical cleric of Pakistan's Red Mosque? On what date(s) did the agency or agencies acquire this information?

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<sup>6</sup> Julia Harte and Mark Hosenball. *California shooters discussed martyrdom before meeting: FBI*. Reuters, Dec. 9, 2015, <http://www.reuters.com/article/us-california-shooting-idUSKBN0TS28320151210>.

<sup>7</sup> Jennifer Medina, et al, *San Bernardino Suspects Left Trail of Clues, but No Clear Motive*, THE NEW YORK TIMES, Dec. 3, 2015, <http://www.nytimes.com/2015/12/04/us/san-bernardino-shooting.html>.

<sup>8</sup> Naila Inayat. *Tashfeen Malik exposed to radical Islam at home, school in Pakistan, focus of investigation*. WASHINGTON TIMES, December 6, 2015, <http://www.washingtontimes.com/news/2015/dec/6/tashfeen-maliks-exposure-to-radical-islam-central-/?page=all>.

8. Please explain what Department of Justice databases, if any, are queried when a foreign national applies for a K-1 visa and permanent resident green card. Did the Department play any role in the background checks that missed the false address provided by Ms. Malik? What, if any, further indicators of threats to national security were missed by the queries of Mr. Farook and Ms. Malik?
9. Is the Department of Justice planning to reopen any of the investigations related to the reported five suspects that may have had a connection with Mr. Farook?<sup>9</sup>
10. On what date(s) did Mr. Farook purchase the handguns used in the December 2, 2015 attack? From whom did he purchase them?
11. On what date(s) did Mr. Marquez purchase the assault rifles used in the December 2, 2015 attack? From whom did Mr. Marquez purchase those rifles?
12. Please provide the Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 that accompanied the purchase of all weapons recovered in connection to the December 2, 2015 attack.
13. In a recent interview you stated that the Justice Department was closely examining Mr. Farook's mother, Rafia Farook's, potential involvement or knowledge of Mr. Farook and Ms. Malik's plans.<sup>10</sup> Are there any indications that Mrs. Farook had prior knowledge or involvement in the terrorist attack? Please explain.
14. Please explain how Department of Justice components are coordinating with federal, state, and local law enforcement components on this investigation.
15. Have recent legislative changes to domestic intelligence collection impeded your ability to conduct the investigation of Mr. Farook and Ms. Malik? If so, how?

Please produce this material as soon as possible, but by no later than 5:00 p.m. on December 24, 2015. To the maximum extent possible, please provide unclassified responses to my questions; should a complete response to any question require that you send me classified information, you may send me that information under separate cover, via the Office of Senate Security. In addition, I request that appropriate Justice Department staff arrange a briefing with my staff on this terrorist attack. Please arrange this briefing by December 24, 2015.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and

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<sup>9</sup> Jennifer Medina, et al, *San Bernardino Suspects Left Trail of Clues, but No Clear Motive*, THE NEW YORK TIMES, Dec. 3, 2015, <http://www.nytimes.com/2015/12/04/us/san-bernardino-shooting.html>.

<sup>10</sup> Kelly McLaughlin, *Did San Bernardino gunman's mother know?*, Daily Mail, Dec. 6, 2015, <http://www.dailymail.co.uk/news/article-3348741/FBI-investigating-San-Bernardino-gunman-s-mother-lived-terror-couple-knew-attack-advance.html>.

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effectiveness of all agencies and departments of the Government.”<sup>11</sup> Additionally, S. Res. 253 (113th Congress) authorizes the Committee to examine “the efficiency and economy of operations of all branches and functions of Government with particular references to (i) the effectiveness of present national security methods, staffing, and processes . . . .”<sup>12</sup> For purposes of this request, please refer to the definitions and instructions in the enclosure.

If you have any questions about this request, please contact Kyle Brosnan or Brian Downey of the Committee staff at (202) 224-4751. Thank you for your attention to this important matter.

Sincerely,



Ron Johnson  
Chairman

cc: The Honorable Thomas R. Carper  
Ranking Member

Enclosure

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<sup>11</sup> S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

<sup>12</sup> S. Res. 73 § 12, 114th Cong. (2015).



**Instructions for Responding to a Committee Request**  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
114th Congress

**A. Responding to a Request for Documents**

1. In complying with the Committee's request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or person denoted in the request has been or is also known by any other name or alias than herein denoted, the request should be read also to include the alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e. CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic form should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image Files (".tif"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and .tif file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

## **Instructions for Responding to a Committee Request**

- e. Alternatively, if the production cannot be made in .tif format, all documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (“.pdf”) format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached.
  - f. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), consult with the Committee staff to determine the appropriate format in which to produce the information.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to the request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When producing documents, identify the paragraph in the Committee’s schedule to which the documents respond.
9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
10. This request is continuing in nature and applies to any newly discovered information. Any record, document, compilation of data or information not produced because it has not been located or discovered by the return date, should be produced immediately upon subsequent location or discovery.
11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.
12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 340 of the Dirksen Senate Office Building and the Minority Staff in Room 346 of the Dirksen Senate Office Building.
13. If compliance with the request cannot be made in full by the date specified in the request, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date specified in the request, and provide an explanation for why full compliance is not possible by that date.

## **Instructions for Responding to a Committee Request**

14. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
15. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
16. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents which would be responsive as if the date or other descriptive detail were correct.
17. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
18. Unless otherwise specified, the period covered by this request is from January 1, 2009 to the present.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **B. Responding to Interrogatories or a Request for Information**

1. In complying with the Committee's request, answer truthfully and completely. Persons that knowingly provide false testimony could be subject to criminal prosecution for perjury (when under oath) or for making false statements. Persons that knowingly withhold subpoenaed information could be subject to proceedings for contempt of Congress. If you are unable to answer an interrogatory or information request fully, provide as much information as possible and explain why your answer is incomplete.
2. In the event that any entity, organization, or person denoted in the request has been or is also known by any other name or alias than herein denoted, the request should be read also to include the alternative identification.
3. Your response to the Committee's interrogatories or information requests should be made in writing and should be signed by you, your counsel, or a duly authorized designee.

## **Instructions for Responding to a Committee Request**

4. When responding to interrogatories or information requests, respond to each paragraph in the Committee's schedule separately. Clearly identify the paragraph in the Committee's schedule to which the information responds.
5. Where knowledge, information, or facts are requested, the request encompasses knowledge, information or facts in your possession, custody, or control, or in the possession, custody, or control of your staff, agents, employees, representatives, and any other person who has possession, custody, or control of your proprietary knowledge, information, or facts.
6. Do not refuse to provide knowledge, information, or facts on the basis that any other person or entity also possesses the same knowledge, information, or facts.
7. The request is continuing in nature and applies to any newly discovered knowledge, information, or facts. Any knowledge, information, or facts not provided because it was not known by the return date, should be provided immediately upon subsequent discovery.
8. Two sets of responses should be delivered, one set to the Majority Staff and one set to the Minority Staff. When responses are provided to the Committee, copies should be delivered to the Majority Staff in Room 340 of the Dirksen Senate Office Building and the Minority Staff in Room 346 of the Dirksen Senate Office Building.
9. If compliance with the request cannot be made in full by the date specified in the request, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date specified in the request, and provide an explanation for why full compliance is not possible by that date.
10. In the event that knowledge, information, or facts are withheld on the basis of privilege, provide a privilege log containing the following information: (a) the privilege asserted; (b) the general subject matter of the knowledge, information, or facts withheld; (c) the source of the knowledge, information, or facts withheld; (d) the paragraph in the Committee's request to which the knowledge, information, or facts are responsive; and (e) each individual to whom the knowledge, information, or facts have been disclosed.
11. If a date or other descriptive detail set forth in this request is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, provide the information that would be responsive as if the date or other descriptive detail was correct.
12. In the event a complete response requires the transmission of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
13. Unless otherwise specified, the period covered by this request is from January 1, 2009 to the present.

## **Instructions for Responding to a Committee Request**

### **C. Definitions**

1. The term “document” in the request or the instructions means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” in the request or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, regular mail, telexes, discussions, releases, delivery, or otherwise.
3. The terms “and” and “or” in the request or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” in the request or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify” in the request or the instructions, when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; and (b) the individual’s business address and phone number.

## **Instructions for Responding to a Committee Request**

6. The terms “referring” or “relating” in the request or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” in the request or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de fact employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee or subcontractor.
8. The terms “you” and “your” in the request or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.

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